



**Hundredth Legislature - First Session - 2007  
Committee Statement  
LB 260**

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**Hearing Date:** February 22, 2007  
**Committee On:** Judiciary

**Introducer(s):** (Kruse)  
**Title:** Change provisions relating to implied consent violations

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**Roll Call Vote – Final Committee Action:**

- x   Advanced to General File
  - Advanced to General File with Amendments
  - Indefinitely Postponed
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**Vote Results:**

5	Yes	Sen. Ashford, Sen. Lathrop, Sen. McDonald, Sen. McGill, Sen. Pirsch
	No	
2	Present, not voting	Sen. Pedersen, Sen. Chambers
1	Absent	Sen. Schimek

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**Proponents:**

Sen. Kruse  
Marty Conboy  
Kevin Quinlan

**Representing:**

City of Omaha Attorney  
National Transportation Safety Board

**Opponents:**

**Representing:**

**Neutral:**

**Representing:**

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**Summary of purpose and/or changes:**

Legislative Bill 260 amends the statutes establishing the penalty for driving under the influence (DUI) to provide that individuals who refuse to consent to an alcohol or drug test shall receive the enhanced penalty for persons with a blood alcohol content (BAC) of .15 or above receive rather than the lower penalty for traditional DUI with a BAC between .08 and .15. The penalty enhancement for high BAC varies depending on the number of prior convictions an individual has, but generally the enhancement adds a longer license revocation period and/or increases the penalty one classification level. For example, persons with one prior conviction have the maximum license revocation period increased from one to fifteen years and the penalty

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is increased from a class W (30-180 days) to a class I misdemeanor with a 90 day minimum (90 days – 1 year).

In 2006, the legislature adopted LB 925 which created the enhanced penalty for high BAC drivers but neglected to include refusal to consent. The current statute creates an incentive for persons to refuse to consent if they have a blood alcohol level above .15 as they will receive a lower penalty than if tested, which was not an intended consequence of LB 925.

**Explanation of amendments, if any:**

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**Senator Brad Ashford, Chairperson**